

**Amendments to the Claims**

Please cancel Claims 8-13, 19, and 24-26. Please amend Claims 1, 7, 14, 20, 21 and 23. Please add new Claims 27-37. The Claim Listing below will replace all prior versions of the claims in the application:

**Claim Listing**

What is claimed is:

1. (Currently Amended) In a system for transmitting audio over a data network; and  
wherein received ~~audio~~ data packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency, which can be modified during periods of quasi silence, an apparatus for determining if a data packet contains ~~one of two types of audio~~, non speech audio or speech audio; and  
wherein audio received as a data stream is transmitted in one or more transmitted data packets, comprising:  
a non speech detection module, which ~~identifies the type of audio received as a data stream~~ determines whether the received data stream contains non speech audio or speech audio;  
an add header routine, which stores a first non speech identifier with the audio in ~~the~~ a transmitted data packet, the first non speech identifier being stored in a header in the transmitted data packet; and  
a remove header routine, which detects the state of ~~the~~ a second non speech identifier in the header of a received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.
2. (Previously Presented) The apparatus as claimed in Claim 1 wherein the non speech identifier is a one bit field included in the header in the data packet.

3. (Previously Presented) The apparatus as claimed in Claim 2 wherein the non speech identifier is stored in a Real time Transport Protocol header.
4. (Previously Presented) The apparatus as claimed in Claim 3 wherein the non speech identifier is set to a first of two states if the data packet contains non speech audio.
5. (Previously Presented) The apparatus as claimed in Claim 3 wherein the non speech identifier is set to a second state if the data packet contains speech audio.
6. (Previously Presented) The apparatus as claimed in Claim 1 wherein the remove header routine determines from the state of the non speech identifier that speech audio is included in the data packet whereupon the jitter buffer latency modification is disabled.
7. (Currently Amended) An apparatus for determining if a received data packet contains ~~one~~ one of two types of audio, non speech audio or speech audio, wherein received ~~audio~~ data packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency, which can be modified during periods of quasi silence, comprising:
  - means for identifying the type of audio received as a data stream;
  - means for storing a non speech identifier with the audio in a transmitted data packet, the non speech identifier being stored in a header in the transmitted data packet;
  - and
  - means for detecting the state of the non speech identifier in the header of the received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.
- 8-13. Canceled.
14. (Currently Amended) In a system for transmitting audio over a data network; and wherein ~~audio~~ data packets are stored in a jitter buffer in a receiver and read from the

jitter buffer at a rate dependent on a jitter buffer latency, which can be modified during periods of quasi silence, a method for identifying a data packet containing ~~one of two types of audio~~, non speech audio or speech audio, comprising the steps of:

generating a non speech identifier which identifies which type of audio is in ~~the a~~ transmitted data packet;

storing, by an add header routine, the non speech identifier with the audio in the data packet, the non speech identifier being stored in a header in the transmitted data packet; and

detecting, by a remove header routine, the state of the non speech identifier in the header of a received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.

15. (Previously Presented) The method as claimed in Claim 14 wherein the non speech identifier is a one bit field included in a header in the data packet.
16. (Previously Presented) The method as claimed in Claim 15 wherein the non speech identifier is stored in a Real time Transport Protocol header.
17. (Previously Presented) The method as claimed in Claim 16 wherein the non speech identifier is set to a first of two states if the data packet contains non speech audio.
18. (Previously Presented) The method as claimed in Claim 16 wherein the non speech identifier is set to a second state if the data packet contains speech audio.
19. Canceled.
20. (Currently Amended) An apparatus for determining if a received data packet contains non speech audio or speech audio, comprising:  
a transmitter, the transmitter comprising:

an add header routine, which stores a first non speech identifier with the non speech audio in a transmitted data packet, the first non speech identifier being stored in a header in the transmitted data packet; and

a receiver, the receiver comprising:

a remove header routine which detects ~~the~~ a second non speech audio stored in the payload of the received data packet dependent on the state of the non speech identifier, whereupon the jitter buffer latency can be modified.

21. (Currently Amended) In a system for transmitting audio over a data network; and wherein received audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency, which can be modified during periods of quasi silence, an apparatus for determining if a received data packet contains one of two types of audio; non speech audio or speech audio; and

wherein audio received as a data stream is transmitted in one or more transmitted packets, comprising:

a non speech detection module, which ~~identifies the type of audio received as a data stream~~ determines whether the received data stream contains non-speech audio or speech audio;

an add header routine, which stores a first non speech identifier with the audio in ~~the~~ a transmitted data packet, the first non speech identifier being stored in a one bit field included in a header in the transmitted data packet, the first non-speech identifier set to a first of two states if the data packet contains non-speech audio; and

a remove header routine, which detects the state of a second ~~the~~ non speech identifier in the header of the received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.

22. (Previously Presented) The system of claim 21, wherein the non-speech identifier is a user definable marker field in a Real time Transport Protocol header.

23. (Currently Amended) An apparatus for determining if a received data packet contains non speech audio or speech audio comprising:

means for storing a first non speech identifier with the non speech audio in a transmitted data packet, the first non speech identifier being stored in a one bit field included in a header in the transmitted data packet; and

means for detecting the non speech audio stored in the payload of the received data packet dependent on the state of the a second non speech identifier in the header of the received data packet, the second non-speech identifier set to a first of two states if the received data packet contains non-speech audio; and

means for detecting the state of the second non speech identifier in the header of the received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.

24-26. Canceled.

27. (New) An apparatus for transmitting audio over a data network comprising:

a non speech detection module, which identifies the type of audio received as a data stream, the type of audio being non speech audio or speech audio; and

an add header routine, which stores a non speech identifier with the audio in a data packet, the non speech identifier being stored in a header in the data packet prior to transmitting the data packet over the data network.

28. (New) The apparatus of claim 27 wherein the non speech identifier is a one bit field included in the header in the data packet.

29. (New) The apparatus of claim 27 wherein the non speech identifier is stored in a Real time Transport Protocol header.

30. (New) The apparatus of claim 29 wherein the non speech identifier is set to a first of two states if the data packet contains non speech audio.

31. (New) The apparatus of claim 29 wherein the non speech identifier is set to a second state if the data packet contains speech audio.
32. (New) An apparatus for receiving audio over a data network comprising:
  - a jitter buffer for storing data packets, the data packets read from the jitter buffer at a rate dependent on a jitter buffer latency, which can be modified during periods of quasi silence; and
  - a remove header routine, which detects the state of a non speech identifier in the header of a received data packet to determine if non speech audio is stored in the payload of the received data packet, whereupon the jitter buffer latency can be modified.
33. (New) The apparatus of claim 32, wherein the non speech identifier is a one bit field included in the header in the data packet.
34. (New) The apparatus of claim 33, wherein the non speech identifier is stored in a Real time Transport Protocol header.
35. (New) The apparatus of claim 34, wherein the non speech identifier is set to a first of two states if the data packet contains non speech audio.
36. (New) The apparatus of claim 34, wherein the non speech identifier is set to a second state if the data packet contains speech audio.
37. (New) The apparatus of claim 31, wherein the remove header routine determines from the state of the non speech identifier that speech audio is included in the data packet whereupon the jitter buffer latency modification is disabled.